

## **Chapter 04 Water**

100 Levy

101 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a) sales to consumers of potable water and services related thereto by rural water associations, municipalities, privately owned businesses, stock companies or any other persons are taxable at the regular retail rate of sales tax, except as otherwise provided. These sales are exempt when sold for residential, noncommercial, nonagricultural use.

102 (Reserved)

200 Residential Usage

201 In order to qualify for the residential exemption, the water must be sold to, billed to, and paid for by the homeowner or resident of the facility. Residential customers may include, but are not limited to, privately owned hunting and fishing camps, summer homes, cabins, or apartments.

202 Hunting or fishing camps that provide hunts and/or accommodations for a fee are not allowed the residential exemption and are subject to the regular retail rate of tax. Vacant apartments with water being billed to the apartment complex or manager are not eligible for the residential exemption. Private homes or residences owned by a business or corporation that are used for commercial purposes and that may be used to provide overnight stay on a temporary or transient basis are subject to the regular retail rate of tax. Such common establishments include bed & breakfast facilities.

203 Apartments rented to non-transient customers where water is sold to, billed to and paid for by the apartment owner are eligible for the residential exemption as long as the water is separately metered between residential and commercial use.

204 Any apartment or home that has mixed usage (residential/commercial) must be taxed at the regular retail rate unless there is a separate meter for the business (ex. business shop, poultry farm, commercial barn, repair garage, etc.). This provision does not include homes that also contain a home office.

205 Charges billed to an apartment owner or homeowner's association for commercial use in common areas such as swimming pools, recreational facilities, leasing offices, clubhouses and irrigation sprinkler systems are not residential usage and are taxable at the regular retail rate of tax.

206 (Reserved)

300 Exemptions

- 301 Sales of water are not subject to sales tax when sold to a qualified exempt organization described in Mississippi statute.
- 302 Pursuant to Miss. Code Ann. Section 27-65-19(1)(a)(ii) sales of water to a church exempt from federal income taxation under 26 USCS Section 501(C)(3) shall be excluded from taxable gross income of the business if the exempt sales are utilized on property that is primarily used for religious or educational purposes. Any church purchasing water may sign an affidavit attesting to the fact that they are exempt from federal taxation and that they qualify to be exempt from sales tax. Utility providers can accept this affidavit or the 501(c)(3) certificate from the Internal Revenue Service as evidence that the church qualifies for the exemption.
- 303 Manufacturers holding a valid direct pay permit must provide their direct pay permit to its utility providers. The manufacturer will not be charged any tax by the utility provider but will be responsible for remitting the correct tax directly to the Department of Revenue. Utility companies must keep their customers direct pay permit or affidavit as documentation in order to sell water for non-residential purposes exempt.
- 304 (Reserved)
- 400 Taxability of Other Income
- 401 All receipts from customers, which are not refundable or which are not investments in marketable equities are considered to be gross income, taxable at the appropriate rate applicable to the customer. Examples are:
1. Charges for line extension
  2. Charges for setting or installing meter
  3. Connection or reconnection charges, including sterilization, inspection fees, tap on fees, etc.
  4. Non-refundable membership fees
  5. Plumbing services on customer's property
  6. Water sales, including fire protection sprinkler charges
- 402 Any of the above charges made to a residential customer are exempt when billed by the utility company. Any charges for the above listed services performed by a plumber are taxable pursuant to Miss. Code Ann. Section 27-65-23. Any charges for line extensions or relocations made during construction of a residence are taxable at the regular retail rate of tax when billed to the contractor. Charges for water billed to the contractor for temporary use during construction is also taxable at the regular retail rate of tax.
- 403 Sales of appliances and the installation or servicing thereof, as well as sales of any other merchandise to residential consumers are taxable at the regular retail rate of tax. This includes accommodation sales and sales to employees.

404 Nontaxable Income:

1. Grants in Aid of Construction (Government, private foundations, or disinterested parties)
2. Investment income
3. Meter deposits (refundable)
4. Permit charges on plumbing installations
5. Real estate rentals
6. Refundable membership fees
7. Reimbursement for line relocation
8. Sales or exchanges of water between public utilities
9. Scrap sales
10. Sewage charges if separately itemized

405 (Reserved)

500 Purchases

501 Purchases of equipment, chemicals and other supplies by privately owned water systems are taxed at the regular retail rate of sales or use tax except that purchases of chlorine, sodium fluoride or other chemicals which, after being added, will remain in the water to the point of the sale for ultimate use are exempt from sales tax. Purchases of tangible personal property and services which are used in the ordinary and necessary operation of nonprofit water associations or corporations and municipally owned and operated systems are exempt from tax.

502 All other sales and purchases claimed as exempt must be substantiated by sales invoices or other records approved by the Commissioner.

503 (Reserved)

600 Filing Requirements

601 Any person making taxable sales of potable water must complete the Distribution of Sales Tax by Cities Schedule, part of the sales tax return filing. The 2% tax discount does not apply to sales of potable water. Adequate records must be maintained to substantiate tax classifications.

602 (Reserved)